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THE OLD SOUTH MEETING-HOUSE.

ARGUMENTS AND EVIDENCE

IN BEHALF OF PEW-OWNERS DESIROUS OF PRESERVING
THE BUILDING FOR THE CONTINUANCE OF
PUBLIC WORSHIP THEREIN.

"The sacred rules of right, which no majorities can displace or overturn."

CHARLES SUMNER.



FOR THE PETITIONERS,

LINUS M. CHILD.

FOR THE REMONSTRANTS,

GEORGE O. SHATTUCK, SAMUEL M. QUINCY,
M. F. DICKINSON.

BOSTON :

ADDISON C. GETCHELL, PRINTER,
No. 53 WASHINGTON STREET.

1874.

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BOSTON. OLD SOUTH CHURCH.

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The Old South meeting-house. Arguments and evidence in behalf of pew-owners and favor of preserving the building for the continuance of public worship therein. For the petitioners, Linus M. Child. For the remonstrants, George C. Shattuck, Samuel M. Quincy, M. F. Dickinson. Boston, Getchell, 1874.

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OPENING ARGUMENT
OF
SAMUEL M. QUINCY, ESQ.,
FOR THE REMONSTRANTS.

Mr. Chairman and Gentlemen of the Committee:—Before proceeding to consider the legal and religious aspects of the case, I venture to ask the attention of the committee to a brief sketch which I have compiled of some of the more prominent events of historic interest connected with this society, and the edifice upon whose fate this General Court is called on to decide. This we regard as important, as explaining the interest which the community at large take, and justly take, that the question submitted to you shall be decided upon sound and correct principles. A chief witness for the petitioners, to a question by counsel whether or not he regarded this edifice as of historic value, simply and naturally replied, "I don't know what you mean." The slight historic memoir which I have prepared, and which we hope may not be without interest to the committee, will explain our meaning and the importance which we attach to this element in our case.

The act of secession from the First Church in Boston by some twenty-eight of the most respectable citizens of the colony, in 1669, and the consequent organization of the Third Church, of which religious body the present corporation is the successor, may be regarded as one of the first protests in favor of the now recognized principle of our

government, of a complete separation of Church and State. Reversing the state of things from which they had fled, our ancestors commenced by making the latter dependent, to a very great extent, on the authority of the former. The second General Court of the colony passed a law that none should be admitted to the freedom of the body politic but such as were church members, and church membership was then very strictly defined. The consequence was, that there was soon a large class of worthy citizens who, from various causes involving no fault of their own, were not church members, and consequently were disfranchised and incapacitated from holding office, though subject to taxation, the impress in war, and all public burdens. This state of things could not long be tamely endured by men of the spirit of our ancestors, and accordingly in 1646 we find them petitioning the General Court that "civil liberty and freedom might be forthwith granted to all truly English, and that all members of the Church of England and Scotland not scandalous might be admitted to the privileges of the churches of New England," or else that "those deprived of civil and religious liberty might be relieved from taxation and the impress in war;" and intimating an intention if refused to apply to Parliament. This petition gave great offence. It was refused. The petitioners' proposed memorial to Parliament was seized, and they themselves refusing to apologize for their "contemptuous and seditious expressions," were fined in various sums. Foiled here, they next sought redress in a different manner by zealously advocating the doctrine that all baptized persons not scandalous ought to be considered church members. This claim was decided in their favor by a council held in 1657, and that baptized persons should be admitted

to all privileges of church membership, except partaking of the communion. In 1662 the General Court appointed a synod of ministers to decide the important question, "*Who are the subjects of baptism?*" To this the answer was given, "They that according to Scripture are members of the visible church;" and this membership was defined in such a manner as to greatly increase the numbers of such subjects of baptism, and consequently of persons entitled to civil rights. But this decision of the synod was not unanimous, and some churches accepted, others rejected it. The First Church in Boston, by a small majority, decided to practise on its recommendations, but on the death of their pastor reversed such decision by calling to their pulpit the Rev. Mr. Davenport, of New Haven, a known and zealous opponent of the doctrine of the synod. Then the twenty-eight members seceded, and then Mary Norton, by her deed of April 1 1669, conveyed to certain of them and their successors forever, the land in question to build a house upon, in which "publicly to worship God," convenient "for the people that shall there from time to time assemble as aforesaid, and for noe other intent or purpose whatever." The seceders, being refused a dismissal from the old church, did then, by the advice of a council of ministers, organize themselves into a distinct church, under the name of the Third Church in Boston. The council of ministers testified their disapproval of the conduct of the old church; the old church replied, and this dispute between the churches, involving as it did the important question of sustaining or rejecting the decision of the synod, raised a flame which spread through the colony, and led to disturbances and even imprisonments of members of the new church, as is supposed for not attend-

ing the regular worship, and setting up a church assembly without permission of the magistrates. When the new church began to take measures to build on Mary Norton's gift of land, Governor Bellingham, a member of the old church, called together the council, "fearing," as he said in the order, "a sudden tumult, some persons attempting to set up an edifice for public worship which was apprehended by authority to be detrimental to the public peace." The council, however, declined to interfere further than to advise those about to erect the new meeting-house to conform to the laws and orders of the General Court. They therefore applied to the selectmen for a sanction to build, which was granted July 26 1669, and the first building erected, which from its location went by the name of the South Church, until the erection of the new South Church in Summer Street occasioned the prefix of the word "old." The Rev. Thomas Thatcher was chosen the first pastor, and installed February 16 1669, the First Church being invited to assist at the solemnities, but refusing. The new church flourished rapidly, and Mr. Thatcher was its pastor for eight years, and at his death was succeeded by the Rev. Samuel Willard, one of the most eminent of New England ministers, who gave perhaps the most striking proof of his courage by his public opposition to the witchcraft proceedings in 1692, although three of the judges who condemned the persons executed were members of his church. He even went so far as to aid persons imprisoned under such charges to escape from the colony. Mr. Willard remained in office until his death in 1707.

During a period of fourteen years from the establishment of the new church, the old or First Church had steadily re-

fused all acts of intercourse or communion with it. But in 1682 the clouds on the political horizon, and symptoms of aggression on the part of the authorities, admonished all that it might soon be necessary to unite in a common defence. It was proposed, for instance, that ministers from the Church of England should be brought over and supported by contributions from churches here, which ministers should have the exclusive right of solemnizing marriages. At a meeting of the First Church, April 23 1682, it was agreed to propose to the South Church to forgive and forget all past offences, and thenceforth live in peace. This was cordially acceded to by the Third Church, and both churches kept a solemn day together, wherein lamenting their former contentions they gave thanks to the great Peace-maker for effecting this joyful reconciliation. It came none too soon, for evil days were in store. In 1685 the charter of the colony was abrogated, and Colonel Dudley commissioned to take charge until the new governor should arrive. The next day a clergyman of the Church of England, recently arrived, petitioned for one of the churches to preach in. This, however, was refused, and he was granted the east end of the town-house until those who desired his ministry should furnish a better. But in December following arrived the most tyrannical ruler ever sent from England to oppress the colonists, Sir Edmund Andros. One of his first acts was to intimate to the ministers of the town that he and his retinue desired the use of one of the churches for the English services. The ministers replied that they could not with a good conscience accede to his demand. His next step was to send for the keys of the South Meeting-House. They were refused, and a deputation of members waited on his excellency to remonstrate, and, as

we learn from Judge Sewall's journal, exhibited to him an extract from Mrs. Norton's deed. Two days later, it being Good Friday, he sent a peremptory command to the sexton, "Goodman Needham," to open the doors and ring the bell, and he being frightened, though he had resolved otherwise (as Judge Sewall tells in his journal), complied. The service for that day, according to the Church of England, was held, and on the next Sabbath the governor and his retinue again took possession, notifying Mr. Willard that he and the congregation might come at half-past one. At that time the congregation assembled, but were kept standing for an hour in the street, a sad sight, as Judge Sewall calls it in his journal. After this the governor and his retinue used the church arbitrarily, changing their hours, to the great annoyance of the congregation. Judge Sewall and others again remonstrated, stating that Mr. Willard did not consent, neither could he nor others dispose of the house, "*for the deed expressed the use it was to be put to.*" The remonstrants, however, took nothing by their motion save reproaches from the governor for having gone off from the old church, and not until his deposition in 1689 were they freed from this annoyance.

The Rev. Ebenezer Pemberton was Mr. Willard's successor. During his ministry in 1711 occurred one of the great fires of Boston, by which the meeting-house of the First Church was destroyed. The South Church unanimously offered their house for the use of both congregations, service to be performed half the time by the ministers of the First Church, for which the same weekly allowance should be made to them by the deacons of the South Church as to their own pastor. This generous offer was accepted. Mr. Joseph

Sewall was associated with Mr. Pemberton in 1713, and was left sole pastor by the latter's death in 1717. In 1718 Mr. Thomas Prince was associated with Mr. Sewall, and "for forty years thereafter did these excellent men labor together in most uninterrupted and delightful harmony," to quote the words of the Rev. Dr. Wisner. In 1727 accessions to the congregation having made it necessary to enlarge or rebuild the church, it was decided after some discussion, by a vote of 41 to 20, to do the latter. Permission was asked and obtained to meet for the time in the old church. A day of fasting and prayer was observed by the congregation on Friday, February 28, and on the following Sabbath the last sermons were preached in the old building to a very great assembly. On Monday, Mr. Sewall prayed with the workmen, and they began taking down the house, and finished its demolition the next day. In his journal, Mr. Sewall adds, "I thank thee, O thou Preserver of men. Reconcile thy servants who have been opposite to this work, and let there be good agreement in the things that are pleasing in thy sight." The new building was completed in April 1730, and is the edifice now threatened with destruction. Mr. Sewall preached the first sermon April 26, from Haggai, ii. 9—"The glory of this latter house shall be greater than the glory of the former, saith the Lord of Hosts, and in this place will I give peace, saith the Lord of Hosts."

Of the revival of religion which followed the arrival in Boston of the Rev. George Whitefield in 1740, I need hardly speak here. "In this glorious work of God," says the Rev. Dr. Wisner, "this congregation largely shared. Within these walls did the voice of the apostolic Whitefield fall on the ears of thousands. And of the fruits of the blessed and mighty

influence more than a hundred were added to this church."

Another striking incident in the history of this church is related by President Dwight in discussing the subject of answer to prayer. In the year 1746, as is well known, the French fleet under the Duke D'Anville, destined for the destruction of New England, set sail from Nova Scotia. In the mean time, our pious fathers, apprised of their danger, and feeling that their only safety was with God, had appointed a fast day to be observed in all their churches. While Mr. Prince was officiating in the Old South on this fast day, and praying most fervently to God to avert the dreaded calamity, a sudden gust of wind arose (the day having been until now perfectly calm), so violent as to cause a loud clattering of the windows. The reverend pastor paused, and looking round with a countenance of hope, again commenced, and supplicated the Almighty to cause *that wind* to frustrate the object of our enemies and save the country from conquest and popery. A tempest ensued, in which the French fleet was wrecked on the coast of Nova Scotia. This incident in Mr. Prince's prayer is also mentioned in the "Recollections of a Bostonian," published in the "Columbian Centinel."

Mr. Prince died in 1758, and Mr. Cummings, and afterwards Mr. Blair, were associated with the venerable Dr. Sewall, who died June 27 1769. For some time previous to his death he had been carried into the pulpit from Sabbath to Sabbath in an arm-chair by the sexton and assistants, and he preached his last sermon on his eightieth birthday. Mr. Blair was dismissed at his own request, on account of his health and other reasons, and was succeeded by the Rev. John Bacon and Mr. John Hunt.

About the commencement and during the continuance of Mr. Hunt's ministry were occurring the memorable scenes which issued in the American Revolution. Of these, according to Snow's History of Boston, so many were associated with this edifice as to have obtained for it the appellation of the sanctuary of freedom. Of these I will allude to but two in their chronological order, but they will suffice to show that, in the words of one of Boston's orators, uttered more than half a century ago, "there is to this edifice not only a natural body, but a spiritual body, — the immortal soul of independence."

The part which this building played, if I may so speak, in an event of greater significance for the cause of liberty than many a victory won in battle — the destruction of the tea — is doubtless owing to the recent celebration, still fresh in your memories. The meeting was adjourned, on account of numbers, from Faneuil Hall to the Old South, and a messenger despatched to the governor at Milton to know if a clearance of the ships with their obnoxious cargoes could not be granted. The task of keeping the assembly together until the messenger's return was undertaken and accomplished by Josiah Quincy, Jr. When at last, in the dusk of evening, the governor's refusal was received, the moderator, Samuel Adams, announced "that this meeting can do no more for the country." Then rang from the gallery the signal war-whoop, re-echoed from the street, the meeting adjourned itself to Griffin's wharf, and the work was accomplished.

Two years later, on the 6th of March 1775, Dr. Joseph Warren delivered, in the Old South, the annual oration in commemoration of the Boston massacre. It was at his own request that he was appointed to this duty a second time.

Some officers of the British army had publicly declared that it should be at the price of the life of any man to speak of the Boston massacre on that anniversary, and Warren wished for the honor of braving this public threat. The building was crowded at an early hour, the British officers occupying the aisles, the flight of steps to the pulpit, and several of them were within it. Warren, assisted by his friends, was compelled to enter at the pulpit window by a ladder. The officers, struck by his coolness and intrepidity, then made way for him to advance. The oration which he then delivered on the mischief of standing armies could not have been stronger had not a red-coat been present. According to one account, on the delivery of one of the most forcible passages, an officer, standing in the aisle toward the Milk-street door, turned on his heel and said aloud, "*Fie! Fie!*" Great disturbance ensued, some taking it for an alarm, others for a command to the soldiers to fire. But, as the account says, "the town clerk (who sat under the pulpit), with his mallet, and the intrepid Samuel Adams, by assuring the citizens that there was no fire but that of liberty, which was burning in their own bosoms, soon stilled the audience, and the orator, who had in the mean time stood calm and collected, proceeded without further interruption."

A few months later, after the battle of Lexington, and while Mr. Hunt, the last pastor of this church before the Revolution, was on a visit to Brookline, the gates of Boston were closed by the British commander. Endeavoring to return to his parish, Mr. Hunt was denied admission unless he would pledge himself to remain. Refusing so to bind himself, he retired to Northampton, and never saw the beloved edifice again.

The immediately subsequent events in the history of the church are familiar to all. Taken for a riding school by Burgoyne's regiment of cavalry, pulpit and pews were burnt for fuel, about a foot of earth and gravel spread on the floor, a leaping bar put up for practice ten feet long and four feet high from the first window west from the Milk-street door, and a liquor-stand in the gallery for the refreshment of those who came to witness the feats of horsemanship. The following anecdote in relation to the use of the building is from the "Recollections of a Bostonian," before cited: "A good old woman that frequently passed the church was in the habit of stopping at the door, and with loud lamentations, amid the hootings of the soldiery, bewailed the desolation of the house of prayer. She denounced on them the vengeance of Heaven, and assured them that good old Dr. Sewall would rise from his grave and carry them off. One night a Scotch sentinel was alarmed by what he thought was the apparition of the Doctor. He screamed most violently, and alarmed the guard at the Province House. There was no pacifying him until some one asked how the doctor was dressed, and he answered, with a large wig and gown. One of the inhabitants, drawn there by curiosity, assured him that it could not have been the Doctor, because he never wore a wig, which restored the poor fellow to his senses. It was supposed to have been a trick of a comrade who wished to frighten a superstitious Scotchman, and for that purpose dressed himself in the clerical habit of the Rev. Mr. Cooke of Menotomy, which he had plundered on his retreat at the battle of Lexington."

For some time after the evacuation of Boston by the troops, this society attended worship with other congrega-

tions. In 1777 the congregation under Mr. Joseph Eckley applied for the use of King's Chapel, which was kindly and gratuitously furnished them for about five years. In 1872, the proprietors of King's Chapel expecting to resume its occupancy, it was voted to repair the Old South. This was accomplished in the following spring, when, in the words of the Rev. Mr. Wisner — "like the temple of old when rescued from the profanation of the Syrians by the Maccabees, the house was in a manner rededicated on the Lord's day, March 2 1783 — the pastor delivering an appropriate discourse to an immense assembly, the choir singing in an anthem prepared for the occasion — 'He hath raised up the tabernacle of David that was fallen; he hath raised up the ruins; he hath built it as in the days of old, and caused his people to rejoice therein. Praise the Lord.'"

The subsequent history of this church, although offering much of interest, I do not propose to follow in detail. The practice of preaching a sermon within its walls to members of the legislative bodies dates back to the year 1712, when the first election sermon was preached in the old house.

There is but one other scene in the history of this edifice which I will venture to recall to the memories of those who hear me, and its date was the first of May 1861.

As a ship, Mr. Chairman, when fired into by a pirate, runs her colors to her masthead to indicate her intention to fight and not surrender, so when the echo of the guns opening on Fort Sumter rolled into Boston harbor, up went the stars and stripes to our masthead — the masthead of the old rebel town — the spire of the Old South Meeting-House. Listen to the language of standing committee, pastor and officers of the church, addressed to their townsmen on that day : —

"The Old South has a store of national recollections. It is associated with many memorable events in our revolutionary history, and has been called the 'Sanctuary of Freedom.' These recollections and associations are treasured as a noble inheritance. *They bestow an influence which no other riches can supply*, for they cherish the spirit of the fathers and prompt their children to love and defend the institutions which life and fortune were given to establish.

"Thus true to the memories of the past, and devoted to the country whose glory must not pass away, the Old South to-day gives our national flag to the breeze."

Listen to the eloquent words of the reverend pastor:—

"I thank you, Mr. Chairman, and gentlemen of the committee, from the bottom of my heart, and in the name of the Christian religion I thank you, for unfurling that flag where it now greets our eyes. *It is in the right place.* If rumor be true, you have performed a bold and dangerous act in throwing that banner upon the air. While the British troops held Boston they destroyed the steeple of the West Church for the crime of displaying the American ensign, and when the flag of secession waves from the top of Faneuil Hall you must expect that the doings of this hour will invite chastisement—that the steeple of the Old South Church, *for having dared to become a flag-staff, will be toppled to the ground.*"

It dared to become a flagstaff, Mr. Chairman, and it stands to-day. But emboldened by impunity it now carries its daring a little too far. It dares to represent a mercantile value of half a million. It has defied alike the powers of foreign tyranny and domestic treason; and, like the mast that Britain strove to bow in vain, it still points skyward. The almighty dollar now leads its forces to the attack, an enemy before

whose might "temple and tower go to the ground." And I very much fear, sir, that when, if not to our ears to those of our descendants, the east breeze shall bring from our harbor's mouth the sullen boom of foreign guns, with our columbiads answering thunder from the outer forts, I very much fear, sir, that a flag-raising over some Temple of Gunnybags, which then marks the spot where once stood the "Sanctuary of Freedom," would excite but very little enthusiasm.

But supposing it otherwise, Mr. Chairman, and on that day of trial Boston's sanctuary of freedom stands where it does to-day; if, undismayed by the roar of artillery or the rush of the missile through the air, a future standing committee shall decide to run the stars and stripes once more to the old masthead of freedom, and appeal to Boston's sons to rally in its defence, which utterance of their predecessors will they be most likely to quote in support of the summons — that of 1861, wherein the "Sanctuary of Freedom" is asserted to possess "recollections and associations treasured as a noble inheritance *bestowing an influence which no other riches can supply*," or that of 1872, wherein in a circular to the legislature they object to spending money "from the Lord's treasury to *preserve a relic which has lost its usefulness*"?

Has it lost its usefulness? That is just the question we shall endeavor to answer.

The petitioners have undertaken to stigmatize the cause of the remonstrants as that of *Sentiment versus Common Sense*. I agree most fully that where these are really opposed to each other, sentiment should give way. But I not only deny that they are necessarily antagonistic, but hope to be able to show that the highest and best common sense invariably re-

cognizes sentiment as a most important element in deciding upon the true course of action. The common sense which desires that the character of the Boston merchant shall be respected throughout the land,—that that of the Boston clergyman shall be revered throughout the land, and that the readiness of the descendants of Boston fathers to sacrifice property and life at their country's call shall be recognized and feared in other lands—that common sense, in a word, which decided that, in support of an appeal to Boston men to uphold their father's flag with their lives, the Old South spire was the staff from which it should float—that common sense goes hand in hand with sentiment in the best and noblest works. And even that very low grade of common sense which understands and appreciates nothing but the interest of its own breeches' pocket often makes common cause with sentiment without knowing it. Were the innkeepers and shopkeepers of Rome, for example, informed of the intention of the authorities to sweep away the Coliseum to make room for a factory, they would be almost ready to fight behind barricades in its defence. Illiterate and ignorant, it is to many of them but an unsightly ruin, but they know well it is one of the chief among objects which attract strangers to their city and money to their pockets.

Now Boston, Mr. Chairman, the old Boston which we love, is no mushroom city built all at once and laid out with a stereotyped and excruciating uniformity of right angle and square,—a city in which, to parody the words of the poet, street answers street, each alley has its brother. The face of old Boston has a character of its own, as has the face of old London or old Paris. Now our position is simply that it is common sense, and in the long run will be money

in our pockets, to efface as few of the historic features of that face—features which remind Boston's sons of the heroism and virtue of their sires—as is compatible with the true interest of the community. The question then comes to this: Do the religious interests—the highest interests of our community—or the business interests, which come afterwards, demand the destruction of this building and a perversion of this trust? One or other of these questions must be answered in the affirmative beyond a peradventure, before, as we contend, the prayer of these petitioners should be granted.

A little more than a year ago, for the first time since Burgoyne's cavalry marched out, soldiers were again quartered within these walls; not this time the hierlings of oppression, but our own citizen militia in support of order and property. And on the representation of the United States official that there was no other place where, after our great calamity, postal facilities could be given to the community, the General Court authorized the leasing of this historic edifice for that purpose. As after the siege of Boston the proprietors of King's Chapel gave the use of their building for five years to this society, so here, after another public calamity, it may be necessary that they in turn should be allowed to lease theirs for \$46,000 to the government for the benefit of the citizens. But an entirely new and different question is now before you, and this brings me to consider the simply legal aspect of the case.

Mary Norton, by deed *inter vivos*, dated April 1 1669, conveyed to certain persons and their successors forever the land on which the church in question stands, "for the erecting of a house for their assembling themselves together publicly

to worship God," convenient "for the people that shall there from time to time assemble as aforesaid, and for noe other intent, use or purpose whatever." In a second deed of an additional strip she refers to the first as one by which she has conveyed land to the same persons "to build a church upon." These words created a religious trust. In such cases the courts have always endeavored to discover the intent of the donor or creator of the trust, which intent has always been carried out, unless the real interest of the trust or of the charity demand a change.

What, then, was the purpose for which this property was originally intended to be used? Mary Norton says, to build a church "*upon*" convenient for the people that shall "*there* assemble." If these words authorized a sale and a building elsewhere for people who should elsewhere assemble, the petitioners would not be before you to-day, nor would the exception which they ask you to repeal ever have been inserted in their charter.

To illustrate the manner in which the ideas of corporators in regard to the manner of carrying out a trust might differ from those of the court or the legislature, let us state a hypothetical case which, let us hope, is not likely to arise: The Bunker Hill Monument Corporation hold the legal title to their land and building subject to a trust of a patriotic nature, just as these petitioners hold theirs subject to a trust of a religious nature. Now, should the first-mentioned corporation come before the court or the legislature for leave to sell their edifice for a shot-tower in order that with the proceeds more extensive pleasure grounds might be purchased in a different quarter of the town, the reply would suggest itself at once: First prove that such change would be for the advantage of

the trust under which you hold the legal title, and the requisite authority shall be given. So here : First prove that the interests of the religious trust created by Mary Norton in this property would be advanced by disregarding her intent as no longer practicable, and by transferring the enormous mercantile value of the land on which others have been paying your taxes into a costly building in a quarter already bristling with spires and steeples, and your petition shall be granted. It can hardly be wondered at if less wealthy corporations striving to fill their churches and let their pews in this quarter of the city should regard this enormous favor granted to a corporation, already the wealthiest of this sort in the city, as a striking illustration of the text, "Unto him that hath shall be given."

Were there in this case, as in most others in which power to sell has been granted, complet unanimity among trustees and *cestuis que trust*, no adverse votes in the corporation, and no voice of remonstrance from the public at large, still it would be the duty of the court or the committee, to be well convinced that the change was for the best interest of the trust before granting the petitioners' prayer. How much more is the burden of proof upon the petitioners, when, as in this case, although by means which certainly invite comment, they have succeeded in obtaining a legal majority, there is yet a strong element of opposition within, and from without the voice of respectful but earnest protest arises from both clergy and laity throughout the land ! Most undoubtedly as a general rule corporations, like individuals, should be allowed to manage their own affairs in their own way, and are, naturally enough, indignant at any unwarranted intermeddling of outsiders therein. But they cannot

make this out to be a case of unreasonable interference with this privilege. The question of the continued administration of this trust according to the donor's intent, or its perversion from such intent, raises a question of public policy, and is, as our Supreme Court has declared in so many words, a question in which the public are directly interested. Any interference to prevent this corporation selling again, should they be so minded, their Back Bay lot, which they have bought with money from the fund held for the general purposes of their incorporation, would be unjustifiable. This piece was not bought, but given to their predecessors nearly two centuries ago in consideration of love and affection, and for the people who shall *there* assemble to worship God, and the interest of the people or the public in the question whether such use must now be abandoned is direct. Better arguments than an admonition to mind their own business must be adduced, in order to convince the people at large that they are entitled to no rights in their "Sanctuary of Freedom" which the legal owners of the bricks and mortar are bound to respect, and weightier authority than the ascertainment of any witness in this case, to convince the worshipping religious public of our city that, the assertion of our Supreme Court to the contrary notwithstanding, the manner of administration of a religious trust is not a matter in which they have any right to manifest interest or concern.

We take issue with the petitioners' confident assertion that this edifice can no longer be used for the public worship of God. We admit that they desire to worship elsewhere, and contend that they are amply able so to do. They admit it to be their duty to maintain places of worship in other parts of the city, but contend that the "Sanctuary of Freedom" is no

longer fitted for the sacred uses to which it was originally dedicated. The burden is upon them to establish such unfitness. Unless by overwhelming proof they convince you that Mary Norton's intent can no longer be carried out, and that in the highest interest of the community you should authorize the destruction of this building, and turn a deaf ear to the voice of earnest and respectful remonstrance heard throughout the land, we cannot but think it to be your duty to report against this petition. Into the question whether the mercantile value of land in a business centre, which the tax exemption has enabled a religious corporation to hold for centuries, ought to be regarded as money in the Lord's treasury, at the disposal of this lucky corporation who thus sweep in millions, while their neighbors, who do perhaps as much of the Lord's work, get nothing, I do not propose to enter.

We submit, however, that even if the unfitness of this building and the impossibility of carrying out longer Mary Norton's intent be established, a most important question of State policy concerning the encouragement of the growth, influence, and disproportionate wealth of a single religious society, remains to be considered before you can pour this enormous sum, representing taxes paid by the community through generations, into the already overflowing coffers of this corporation.

TESTIMONY OF WM. R. WARE,

ARCHITECT, AND PROFESSOR AT THE INSTITUTE OF TECHNOLOGY.

Mr. Ware's testimony was to the effect that, should it be decided at any time to widen Washington street on the east-erly side, this would not necessitate the destruction of the church tower, since, by supporting the same by an arch and columns, the sidewalk could be carried directly under it.

VIEWS OF EX-PRESIDENT WOOLSEY, PRESIDENT
PORTER AND OTHERS, OF YALE COLLEGE.

NEW HAVEN, November 25 1872.

We, the undersigned, regarding the Old South Church as in some sort belonging to New England, desire, although resid-ing in another state, to express the hope that it may be pre-served to all time for religious uses, and may never cease to be an historical and religious landmark in Massachusetts and New England.

LEONARD BACON,
THEODORE D. WOOLSEY,
NOAH PORTER,
GEORGE P. FISHER,
SAMUEL HARRIS,
GEORGE L. WALKER.

TESTIMONY OF PETER HOBART, JR.

Mr. Peter Hobart, Jr., a member of Park-street Church, testified that he had attended church at Park street since its foundation, until about three years ago, and of late years there had been an average attendance of about 1000. He bought a pew in the Old South about two years ago, and purposed to remove his church association there. He made application for a deed of the pew, and after a second application he was informed that he (witness) could not have the pew, and that it had been conveyed to a sister-in-law of the treasurer, Mr. Blake. This gentleman further informed him that he could have a pew in the new church, and that the pew which he had purchased had been conveyed to another person to offset a certain vote. He (witness) was opposed to the removal of the Old South to the Back Bay lands, and had expressed such a preference to the sexton of the Old South.

AGREEMENT OF URIEL CROCKER AND OTHERS,
TO CONTRIBUTE FUNDS FOR THE MAINTENANCE
OF WORSHIP IN THE OLD MEETING-HOUSE.

We, the undersigned, present or past members of the Old South Church and congregation, deeply regret that the church has abandoned its old meeting-house.

We believe that the situation of said meeting-house is favorable for a house of worship, and that, could it be restored to its old uses, public worship could without difficulty be maintained there.

Should the legislature refuse to authorize the lease or sale of said meeting-house, and should the Old South Society be unable or unwilling to maintain worship there, we are ready, provided the meeting-house is delivered to us free of rent and taxes, as the society has hitherto had it, and restored to its former condition by the United States government, to maintain public worship therein according to the doctrine of the Orthodox Congregational churches.

We hope and believe that the church would be self-supporting, or nearly so; but to meet any deficiency, we hereby agree to guarantee the annual payment for five years of the sums set opposite our names, or such proportion thereof as may be necessary.

Boston, January 1874.

Uriel Crocker, \$500 each year for five years.		
David Buck, \$500	"	"
Harriet Gray, \$500	"	"
Ellen Gray, \$300	"	"
E. C. Milliken, \$200	"	"
Joseph Ballard, \$500	"	"

PRESENT OPINION OF JOHN COWDIN, ONE OF
THE MAJORITY, CONCERNING THE PRESERVA-
TION OF THE EDIFICE.

I will give ten thousand dollars to have the Old South Meeting-House preserved, with the land around it, as a church and monument forever.

JOHN COWDIN.

CLERGYMEN WHO HAVE AGREED TO PREACH.

The following-named clergymen have agreed to preach in the Old South if it is preserved, the number of Sundays indicated, annually for five years : —

	Sunday.
Rev. Prof. Taylor, Andover, . . .	1
" " Thayer, " . . .	1
" " Mead, " . . .	3
Rev. Mr. Ropes, " . . .	1
" Chas. Smith, " . . .	1
" Prof. Churchill, " . . .	1
" C. B. Rice, Danvers, . . .	2
" Selah Morrill, Andover, . . .	2
" B. F. Hamilton, Roxbury, . . .	2
" C. R. Bliss, Wakefield, . . .	2
" A. Mackenzie, Cambridge, . . .	2
" Prest. Stearns, Amherst College, . . .	1 1st yr
" Prof. W. S. Tyler, " . " . . .	2 ann'y
" H. M. Dexter, New Bedford, . . .	1 "
" Wm. W. Cornell, Boston, . . .	2 "
" Mr. Abbe, Dorchester, . . .	2 "
" Dr. Noyes, Pigeon Cove, . . .	1, 2 or 3 "
" Dr. Brown, New Haven, . . .	2 or 3 "
" Mark Hopkins, D.D., . . .	1 "

and others.

TESTIMONY OF REV. CHAS. B. RICE, ORTHODOX
CONGREGATIONAL MINISTER.

The property belongs to the Old South Society in trust for a specified use. It is not theirs for any other use. The

question brought before the people, through the legislature, is really whether the people will give that society this property in a manner in which it does not now possess it. This question is peculiarly one not for those who are to receive the gift, but for those who are expected to make it.

The witness denied that the public interest requires any change in the terms of the trust. The house is needed as a place of public worship where it is. The petitioners have said that the whole peninsula is likely to be given up to purposes of trade. The greater will be the need of this building where it is. Other churches will be obliged to remove from this territory, as many have already done. But the territory will not be left without a resident population. Though most of its families in households may disappear, there will be great numbers of persons in the hotels and in the boarding-houses. There are numerous employees in eating saloons, in barbers' shops and in places of retail trade, that do not and cannot go far from their business by night. The witness had made inquiries on this point. Multitudes of young men and women would still live near at hand. This society alone, or better than any other, is able to provide for them a place of public worship. Here, then, is a great and peculiar local necessity, and here are the means to meet it. The fitness is providential. The original trust may properly be held as it is, to meet the wants of that great trading community whose growth has given it the most of its value.

It has not been proved that a congregation could not be gathered in this meeting-house. By ordinary methods it might not be. But the case is not ordinary, and it calls for methods confessedly exceptional. The very wealth of the Old South Society had been a hinderance in the way of

bringing in the persons needing to be reached. With the removal of this wealth, saving the building itself, to the Back Bay — to which no one objected — the prospect of successfully maintaining public worship on this spot would be increased. The society removing would still have wealth, drawn from this tract, beyond its needs and beyond the limit of safety. The interest of the classes not wealthy in this building deserves special consideration from the legislature in determining what the public good might require. Beyond these religious uses, the historic memories put upon the ancient building are not to be disregarded. The witness deprecated the spread of that variety of "common sense" which the founders of New England never possessed, which makes light of those higher sentiments. They are allied to religion; they are essential to the life of the public. They have to do, in Massachusetts, with the honor of our State, and with its ancient leadership in the nation. Daniel Webster pointed to Bunker Hill and Lexington and Concord as destined to remain here forever the witnesses of our heroic past. If all these ancient buildings are removed, the future calumniator of our State may answer that Bunker Hill and Lexington and Concord do indeed remain, since no gain could be gotten in their destruction, but that Massachusetts has nothing left of all her past which her sordid sons could sell for money.

As a man of Massachusetts, and speaking, as he believes, for great numbers of his brethren in the ministry and of the citizens of the State, he objected to the granting the prayer of the petitioners, and protested against it until further and full trial, at least, should be made of the possibility of maintaining the building where it now stands.

TESTIMONY OF REV. H. M. DEXTER.

The Rev. H. M. Dexter, editor of the "Congregationalist and Recorder," testified in reply to questions, that he dwelt in Boston, and was for eighteen years pastor of the Pine street and Berkeley street Churches; when he went to Pine street the church was weak, and the Berkeley-street Church was in comparatively good condition when he left it; he had not taken sides with the petitioners or remonstrants in this case. As to the sentiment of the ministers and laity upon this question, he was not fully posted, but he had never met a minister who was not opposed to the removal of the Old South; he presumed there were such, but he had not met them. As a whole, he thought the letter from the Rev. Mr. Phelps, of Andover, was a general expression of the ministerial sentiment of the State on the question at issue. He saw no reason why worship could not be maintained at the Old South, but the congregation must be an exceptional one. There were many young people lodging about business blocks, whose religious wants must be supplied; this class of population would probably increase in numbers, and hence the growing necessity for providing places of worship for them. As to the comparative usefulness of churches and mission chapels, he thought that the latter would do quite as much good among certain classes as a church managed as the old churches were. Speaking of the comparison between the usefulness of eight or ten chapels and the Old South where it now is, he thought that the public possessed no guarantee that the chapels would be built. As a Congregationalist, he was hardly in favor of the policy of allowing religious bodies to hold large sums of money, and of their being supported in the policy by the legislature. He thought there were temptations connected

with great trusts, and from this fact an argument against the policy arose. Again, he thought light would be thrown upon this whole matter, if the city papers were to announce on the morrow that the proprietors of the Old South had decided that as soon as the government was through with the church it would be restored to its former condition, and thrown open again for public worship; that memorial tablets would be placed in the walls, and that the house would be forever open for religious services. Supposing this were to be done, he thought there would be a flush of feeling all over the State, and people would say the action was christian, and just what had been expected of the Old South Society. Nothing of importance was elicited by the cross-examination beyond an expression of the view that, to succeed, religious services should be conducted in the old church after an abnormal theory, and not as churches usually are.

STATEMENT OF JACOB A. DRESSER, A PEW OWNER OF THE MINORITY.

I think, Mr. Chairman and gentlemen, that this subject has assumed an aspect in the minds of the gentlemen connected with the society somewhat too narrow in its scope; that, viewed in connection with the trust, the application of that fund, now increased to an extent enormously beyond the anticipation or idea of anybody in its early incipency, should be broader. Then it was contemplated, unquestionably, that it should be narrowed to the particular sphere of the Old South Church organization; it was so expressed in

the deed ; but no one will say that it is needed now in that particular sphere. It is not narrowed down to that, and ought not to be. After sustaining that, it seems to me it should be dispersed more broadly. The Old South Church, in its present organization, may, if it elect, as it perhaps has elected, go down to the Back Bay, and be sustained there from the fund which has been provided. That fund, fortunately, is sufficient not only to sustain the church in its new locality, but also to sustain worship, in literal accordance with the desire and with the provision of the donor, upon the old spot ; and not only in accordance with that desire and that purpose, as expressed in her will, but in accordance, as I believe, with the best interest of the community at large. These gentlemen, I know, consider themselves only stewards of the premises, only custodians of that fund, for a specific trust in the first place, and ultimately for a public benefit. They do not arrogate to themselves the right to appropriate it in any otherwise than for the public good. It is a difference of judgment, not of feeling in the way of temper at all ; it is a difference of judgment as to the way this fund can be made to do the most good. The existence and continuance of that Old South Church organization, so dear, and so justly dear, to the hearts of these gentlemen, and by sympathy to the whole community, are provided for amply, abundantly and without the destruction of the old church. What, then, shall be done with that ? Shall we say that it has outgrown its usefulness ; that it has ceased to be of any value to the community, because it has not yet gathered there so large a congregation as in some other spots may be gathered ? That because the Christian Association, in its well-meant efforts for improvement, failed to

draw together there a large audience every Saturday night during one season, therefore the edifice should be condemned as useless? And because they succeeded the following year at Tremont Temple, a place not more known, but to which the public are more accustomed, and which is more regarded as a social and general place of gathering — because they succeeded there — is that, in itself, any condemnation of the Old South? Then, again, they succeeded there merely for a single year. How would it have been for a succession of years? We know not. But it seems to me, further, that the Old South edifice is a benefit to the community, standing there alone, as a memorial of the interest of this community in religious things. It seems to me, sir, from the little observation I have been able to make of other cities and other countries, that there is no community professedly christian, and certainly none in the heathen world, that I have ever seen, where religious memorials are so largely divorced from the every-day life of the business population as they are in our American cities. It may be a result growing out of the division of labor; it may be that we are more intensely devoted to the particular object that for the moment engrosses our attention than people of other countries, and that in this way it is legitimate and consistent with our practices and customs as a people thus to divorce all religious memorials from business. But I confess that to me it is somewhat unwelcome to find in other countries where they have, for instance, the union of Church and State, a practice much deprecated, in the very centre of their business, the inscription over the royal exchanges and over other public business edifices, "The earth is the Lord's, and the fulness thereof," and to find churches located in these

business centres, maintained there without a thought of moving, without a thought that they are useless.

Still less do I interpret the providence of God as it has been interpreted by some of our worthy friends here in the salvation of that old church from the flames, two years ago. Why, sir, how is it possible that when the Almighty seems to have said by an act which is louder than any word, "Thus far, and no farther," and no hair of its head, figuratively speaking, was scorched, neither of its property nor of its edifice ; how is it possible for us to construe that as an indication, as a mandate, that we should go on immediately and destroy the edifice which God has preserved? I cannot, for one, sympathize with any such interpretation of the Scriptures. Such an exegesis of Providence does not come within my scope at all.

Then, again, it seems to me that just at this moment it is unwise and impolitic for us to be even discussing the destruction of that old edifice. Why, sir, a month ago we were all of us largely enlisted in the celebration of the Boston tea party. What was that but a recognition of the service which the Old South Church had rendered in days gone by? What was it but a recognition of the old church itself as a reminder of that which we should all be willing and happy to cherish in our hearts? Then, again, we have before us now a national centennial celebration, and it seems to me that in the eyes of the nation we should be doing wrong to allow for a moment the idea that the glorious old trio of buildings, sacred to liberty and associated with all our earliest and best historical recollections, should be broken ; that Faneuil Hall, Independence Hall and the Old South should not be allowed to go down to posterity together.

I know, Mr. Chairman, that many of these ideas have been put before you better than I can put them, more fully, more impressively; still, we have good authority for saying that "Out of the mouths of two or three witnesses, every word shall be established." I hope it may be so in the present case, and that the committee will regard the Legislature as in part interested in this trust, for I do not conceive that it rests entirely with the pew proprietors of the Old South Church, of which I am happy to be one. I do not conceive that the trust rests entirely with them, but that it is for the Legislature, when that board of trustees or proprietors may err in judgment, to admonish them. Nor can the Legislature be properly absolved from that responsibility by the statement, "The majority came here and asked us to do it, and we yielded." I hope the Legislature will take upon themselves the responsibility, and will also draw a distinction, which it seems to me they failed to draw in the consideration of the question, a year and a half ago, between the Old South Society and other societies in the Commonwealth in this regard; that this fund has not been contributed by us as proprietors of that church; that we have not contributed to it in any wise. It was given in the first place, and has been largely increased, by no exertion of ours, but by the exertions, energy and business of the community itself; giving to that community, and to the Legislature through that community, the right to say what shall be done, and how it shall be done, after the necessities of the Old South Church organization, as such, are abundantly supplied. In that respect I conceive it differs entirely from the general organization of Christian societies in the Commonwealth.

TESTIMONY OF REV. DR. LORIMER, OF TRE-
MONT TEMPLE.

I would like to state to the committee that I have been requested by one or two gentlemen to appear before you for the purpose of imparting information concerning my society ; and I have done so with the distinct understanding that I express no opinion at all in regard to the action of the Old South Church. I always feel that it is rather impertinent for people outside to interfere in the business of others. In regard to the Tremont Temple Church, I will say that we have in the morning a congregation of about twenty-two hundred ; in the afternoon of about three thousand. From five to six hundred persons apply almost every Sabbath for seats who cannot be accommodated. The class of people who go there, I suppose, is a class you would regard as well-to-do people, not affluent, not wealthy, not moving in what you would call the higher circles of society. We have a few, possibly thirty or forty, very prominent men, merchants and leading citizens, who take a pleasure in co-operating together, and providing whatever necessary means may be lacking for the success of the religious enterprise there. We have a regular church organization, which numbers between eight and nine hundred members. We have a very fair proportion of families in that church, as fair a proportion for the size of the congregation as I ever have known anywhere. A great many of them are young families ; that is, young men and women who have been married two or three years, or recently married, who are boarding at the Hotel Boylston and other places in the city that are accessible ; young and rising merchants and young and rising trades-

men. We have a very large proportion of this element ; a great many young men occupying important positions in stores, as salesmen and bookkeeping ; young men of talent and education. We have a Sabbath school, the average attendance at which is between seven and eight hundred. We have upon the books, I presume, ten or eleven hundred. We find no difficulty in maintaining worship at that point. There would be a great deal of difficulty, I have no doubt, if the pastor rested all the week, and merely went there on Sunday, and preached a couple of sermons. However beautifully they might be written, and however eloquently they might be delivered, I do not think he would have much of a congregation. I have found in my experience in a pastorate of fifteen years, that if a pastor looks after his people, his people look after him. In other words, I find that a house-going pastor makes a church-going people. A man who attends to his parish duties and looks after his people, will find that they are interested in the ordinances of religion, and anxious for the good of their families, and for their own good to be present in the sanctuary. I would just as soon hope to succeed in one part of the city as another, so long as health is preserved, and my energies are as they are to-day. Our church is a free church, and the contributions from the congregation during the year are abundantly adequate for the support of worship. It is a church that is liberal in the use of means. Its pastor's salary is six thousand dollars. It has two assistants employed, one lady assistant and a gentleman assistant, at a cost of between two and three thousand dollars a year. Besides that, we have classes of young men who visit the shipping, and they are allowed abundant means for the distribution of religious literature. We have a read-

ing room and library which is maintained, and a young man is employed at a salary of seven dollars a week to be in the room to take the names of strange young men, and if he hears of anybody who is sick among the congregation of young men, to give their names to the proper authorities. As far as money is concerned, we find that the people are willing to pay reasonably, and we only need from a large congregation of that kind a moderate sum from each, to make quite a large amount in the aggregate. We are not cramped for means. The church gives to every leading benevolent object, both in the city and out of the city. I suppose it ranks among the first active, working, religious bodies in the world.

Q. (By Mr. DICKINSON.) Whether, in your opinion, there is still room for other organizations of a similar character in this part of the city?

A. Yes, sir. We had a general thanksgiving not long ago over the supposition that our Methodist friends were going to establish a similar church at Music Hall; and at our ministers' meeting I have expressed the opinion that they would have a large and interesting congregation there. The idea that there are no families, or very few families, in that neighborhood is a great mistake. I know that in that part of the city leading towards McLane street and Blossom street, and all through there, I have found a great many families, thousands upon thousands of families, and they go a great ways, many of them, to attend church. I heard the remark made here by one gentleman in regard to the "floating population." I would like to say that I have pretty good eyes, and I remember names very readily. I have now observed my congregation for four months, and I can state that

sixteen hundred, at the lowest, out of the twenty-two hundred who worship in that place are as regular attendants as the worshippers in any church that I have ever known. Of course, in such a large congregation as that, for that is exceptionally large, it is reasonable to expect that there should be five or six hundred persons from the hotels and other places in the city who are visiting here from the west and east; of course, a great many of that class will come in; but the idea that a congregation worshipping in a free church must necessarily be a kind of scum of the community, a sort of riffraff floating in on some sort of popular current, is a great mistake. You will find that people who attend churches of that kind are people who have a great deal more sense than you give them credit for, and a great deal more stability. I know I have found it so. My church on Shawmut avenue was one of the first churches in social position in the city. I had charge of that church four years, and enjoyed my pastorate very much, and I applied the same rules there that I am applying at Tremont Temple. I do not understand that any different method is necessary in one place than the other. I suppose that the pastor is simply to look after the wants of his people, to try to promote their religious intelligence and religious life, and I have always found the people ready and willing to sustain me wherever I have labored. That is my testimony on that point.

Q. (By Mr. QUINCY.) I should like to ask you, as a question of general policy, whether you think more good is done by the administration of disproportionately large funds by a single society, or by the encouragement of the formation of independent societies?

A. Well, if you mean by that question, whether I think

the most good would be done by a church that was so comfortably off in its pecuniary means as not to require any personal contributions from year to year for the support of benevolent objects, or by a church that had not such large funds, I say it is a curse to any church to be in a position where she does not have to pay right along. We have abundant evidence of that — that men ought to give — and that just in proportion that the property of a church increases, that property ought to be used for other benevolent objects.

Q. You said, very properly, that you did not wish to assume the attitude of interfering with the affairs of another religious society. Now, we all agree that the petitioners here are acting on the dictates of their conscience, and doing what they think best for the interests of religion. It is not the slightest reflection upon their sincerity if you or anybody else, upon a hypothetical or actual case, should come to a different conclusion. Now, I should like to ask you whether you think the interests of religion would be best advanced by the destruction of this building, and adding the value of the property to the funds of this society, or by allowing these dissentients to separate from the majority, form a new society and endeavor to continue the administration of the trust — try the experiment, and see if the trust cannot be longer administered, according to the intent of the donor?

A. I shall decline answering; not that I should hesitate to give an opinion about it, but simply from the fact that I do not wish even to seem to take sides upon a question of this kind. I am perfectly candid. I do feel this, however, in regard to a church at our end of the city: that a Congregational church, or any church, in fact, that has at the base

of it a few earnest, working men, who believe what they are teaching, and that has a minister who is anxious to promote the welfare of the society, will find no difficulty in succeeding. Of course, it is a question for a church to decide, whether it is worth while for them to remain in a particular place; but so far as success is concerned, it is an absurdity to talk about not succeeding.

EDITORIAL FROM THE SPRINGFIELD REPUBLICAN, FEBRUARY 17 1874.

The Old South Meeting-House, but chiefly the land under it, is worth in round numbers, for business purposes, half a million of dollars. Its proprietors own other adjoining real estate to the amount, it may be, of \$800,000 — and more, it is thought, rather than less — and now renting for \$49,000 annually. This property, with comparatively insignificant exceptions, has arisen out of the gift to that society, two hundred years ago, of the tract of land upon which the meeting-house and certain adjoining buildings now stand. The land was given "for the erecting of a house for their assembling themselves together publicly to worship God." Also for parsonages, if they should be wanted; and "for no other intent, use or purpose whatever."

Of late years, the extension of trade has caused the removal of a large part of the families connected with the society to the new lands at the rear of the city, toward the southwest. It became inconvenient for many of them to attend at the old house. They have accordingly built a chapel and parsonage in the new district, and a meeting-house is in

process of construction. Upon these buildings there will be expended, perhaps, something short of half a million dollars. To all this nobody makes any objection. The expense could be met in no very long time out of the rental of the other property; or, if that were better, there might be sold enough to pay for the new structures, leaving property to the value of at least \$300,000, besides the old meeting-house, untouched. The society therefore would not be impoverished if they were to let the old building remain. They would still have money enough left to make their prosperity as a working Christian organization a matter of great doubt; and as much, too, as the State has any occasion to allow such an organization to hold.

Under these circumstances they ask the Legislature for leave to lease or sell the old meeting-house for business purposes; the proceeds to go into the pockets of the corporation. The money, we are told, is to be spent in building chapels and in all sorts of other pious and charitable uses; always excepting, however, enough in the first place, it may be presumed, and as the history of the past shows, to cover all the running expenses of the society, with little cost to the pockets or the individuals connected with it.

The most splendid associations have been put upon this ancient house, making it for memorial purposes, and with respect to the periods just preceding the establishment of our national independence, the second, or at most the third building in historic value within these States. The desire on the part of the general public that the Old South should be preserved is, no doubt, chiefly on the ground of these associations; but this, though it may be reason enough for preserving the building, is not of itself a reason why the present

owners of it should be required to keep it. But it does give occasion to the public to look sharply after it, and to forbid its destruction, if on other grounds the owners may properly be expected to let it stand.

The land was given for the uses of public worship. If it can have any good further use, it ought to be kept for that purpose. The burden of proof fairly rests with those that wish it given up. It is not enough to show that most of those once worshipping there, can be better accommodated somewhere else, since they can have that accommodation elsewhere at the expense of this very gift, and without touching the ancient building. The testimony before the legislative committee of the advocates of removal, went mostly wide of the mark. It is admitted on all hands, that the meeting-house is not well situated for the uses of an ordinary parish. But it is contended that there is an extraordinary use to which it is exactly adapted. The homes of established families are being removed from the city, and the churches must generally go with them. Yet population will not be wholly withdrawn from these districts devoted to business. Here are numerous hotels and boarding-houses. They must remain, and are more likely to increase than diminish in numbers. There is a vast population here to be fed for some part of the day; and the men and women that do it cannot live far from their business. Suburban property, meanwhile, is rising in value, and is being rapidly taken up. Attention is likely to be the more directed, as it is beginning to be already in New York, to arrangements for living in the upper and cheaper rooms of the warehouses. The business parts of the city will not be and are not uninhabited. Places for public worship will be needed. It will be a matter of great

expense to furnish them. An ordinary society can hardly do it. This society can, and suffer nothing, but be rather the gainer by it. The gift seems providentially designed for this purpose.

There has been no proof that a congregation could not be gathered in that house. The Old South people think they have tried it, because they have sometimes opened the house, and made the seats free for a part of the day on the Sabbath. Their simplicity in this matter, if it be such, is refreshing. The young men and women in our cities do not so hunger and thirst after preaching that they will rush in for it at any door that may happen to be left open. It is needful, except in rare cases with popular preachers, to go out and "compel them to come in." It takes work to bring them in. This the Old South people never attempted. Such persons are apt to go where they think they are in some sort needed; and the Old South people, in their most unquiet sleep, never dreamed of needing them. It was a matter of common report that they were select and sufficient unto themselves. The pretence that there has been any trial, worth the name, of a free church on that spot, is too ridiculous to be talked of. As between this unsettled and not wealthy population that will remain in the business parts of the city, and the rich men that move away upon the borders of the town, it is not the latter that should be thought of most in deciding to what use a great public trust and charge like this should be put.

That it is desirable on public grounds to keep the building where it is, seems thus to be clear. But, if this is so, then there is no injustice done to the Old South Society in requiring them to keep it. It has cost them nothing. It belongs

to them only in trust, and for their public uses. The cost of it really has fallen on the public itself. Its great value is due to the rise of property about it; that is to say, to the labors of the public there expended. So far, too, as concerns the building and the land under it, it has been exempted from taxation; and that to an amount, too, if the yearly sums are reclaimed, much beyond its present value. Exemption from taxation means payment of taxes for it by the public. The right to this property, therefore, does not rest exclusively nor mainly, in a moral point of view, with the Old South Society. At the very least, the public has the right to require that it shall be used for the purposes for which it was given, and, if it sees fit, on the spot where it was given.

We doubt if this sound, legal basis for the opposition to removal was brought sufficiently into view a year ago. Our people like to know that they have a right to do what they wish to do before they do it. The custom in these cases has been to allow religious societies to do pretty nearly what they please with their meeting-houses and all their property. But there has been really no such case before, and it may be high time, too, that the custom was broken. The interest of the public in the maintenance of truth must at all events be asserted; and the more stoutly, if any will be so foolish or so wilful as to deny it. There has been this disposition with the Old South Society, or that portion of it desiring the change, to look upon the whole matter as a private business of their own, in which no other person has a right to meddle; and this even while they were bringing it themselves before the people represented in the Legislature. A year ago, gentlemen offering only respectful and legal opposition to their wishes were jeered at and insulted in the State House by

prominent members of the society. Something of the same feeling still remains. It is not creditable, either to their temper or their intelligence. It will not prove in the end to their advantage either, — if they can understand that any better. The people of this commonwealth have an ancient habit of interesting themselves at their discretion in all affairs of government. The Old South building is a witness to the fashion, if its present owners have forgotten it. The custom is not about to pass out of use, even if they were to desire it. The people, through their representatives, will deal with the Old South Society as shall seem to them most just. And they may even think it best to grant them favors beyond what is strictly just. But they will judge for themselves. They will respect their own rights, and will cause them to be respected.

LETTER FROM REV. E. B. WEBB.

M. F. DICKINSON, Jr., Esq.

My dear sir, — I can give my own convictions, apart from the reasons for them, in a few words. And as to the reasons, there is no need that I should give them, since, in one form or another, they have been frequently given, and are many and strong. The gentlemen who are moving to dispose of the Old South I have the happiness to count among my friends, at least a number of them. They are most worthy, honorable and excellent Christian men. Their motives I do not at all impugn. But I think they are mistaken in their views and opinions, and, consequently, wrong in their action. The question to control and settle the matter,

as it seems to me, is not what is the best use that can be made of such an amount of property ; not what use Mary Norton would make of her property, were she living now ; not whether she has made the best use of it ; but simply this : What disposition did Mary Norton literally and truly make of her property ? I cannot think that she ever intended or designed that it should be sold to build a church on the Back Bay, or chapels in the suburbs. Had this property been given to these gentlemen to do with it as should seem best to them, had they by inheritance or in any other way become the owners of it, there would be nothing for an outsider to say. But, as I conceive, they are not in any sense the owners of this property. They are only trustees. Save the mere fact of a temporary and perhaps accidental relation, every man in the community has the same ownership with them. They are not at all at liberty, therefore, to use the property in accordance with their own judgment as to what is best, or how or where it would do the most good. It is theirs sacredly to execute the trust. And as to the reply made by some, that this affection for a building or a spot is merely a matter of sentiment — that associations, historical, patriotic, pious, are of little or no account, I am amazed to see such statements. I cannot believe the gentlemen moving to dispose of the Old South, or convert this sacred trust to a secular use, are destitute of them. Certainly the common feeling is that such sentiments are most worthy and ennobling. Cherished, they elevate and inspire children to repeat the noble deeds of their ancestors. Therefore, to blot out such a monument of piety and patriotism as the Old South, is to encourage vandalism and inflict wrong on generations to come. If any portion of our community has already ceased

to feel the power of such sentiments and associations, the Old South is just the place above all others in which to reawaken and restore them. To me the history and associations and sentiments which cling about the Old South are simply priceless. Were the property worth pecuniarily ten times as much as it is, it could not be better invested than in perpetuating the truths, rights and sentiments which are identical almost the world over with the name of that historic church. And, furthermore, I do not believe that it has been made out, or can be, that the demand for such a church in just that position has ceased. On the other hand, I believe, and, to a great extent, I can say, that I know the Old South ought to be maintained there. Doubtless, the population about it has changed, and the present trustees would be better accommodated in another locality. But these facts are far enough from implying that the church should be given up. Indeed, they may imply just the opposite; viz., the greater, the more imperative the need of the church just where it is. And providentially as the coal is stored in the mines to supply us with fuel when the grand old forests are gone, Old South is still able to supply the spiritually destitute, and to go out into the streets and lanes of the city and bring in the poor and the maimed, and the halt and the blind, that the house may be filled.

It does seem to me a great mistake, a sad mistake, to give up the Old South. I will add nothing more, except to say that a large part, and I believe a large majority, of our ministers and theological professors were amazed at the proposition to abandon the Old South, and are now grieved and pained by the persistent efforts made, what seems to many, a sacrilegious design. I hope that house may be speedily re-

stored to its original use ; and that it may stand a sanctuary and the dwelling-place of God, while the city and the country enjoy the religion and the liberties with which its name is identified.

Yours truly,

E. B. WEBB.

LETTER FROM PROF. MEAD OF ANDOVER.

GEORGE O. SHATTUCK, Esq.

Dear sir, — At your request, I will undertake to put into writing my views respecting the proposed lease of the Old South Meeting-House. In doing so I speak only for myself ; but I can express the utmost confidence that, in general, my sentiments are shared by my associates here, and by the great mass of the Congregational clergymen of my acquaintance. It would have been much more satisfactory if the proprietors of the Old South Church could have been induced voluntarily to leave the old building standing. But as they have resolved differently, and have made the matter a public one, by applying to the Legislature for permission to lease the property, every citizen is at liberty, as represented in the Legislature, to express his opinion.

1. In the first place, the case now under consideration is a peculiar one on account of the historical interest of the building which it is proposed to devote to destruction. It may safely be said, that, if there is a building in Massachusetts which ought to be preserved as a memorial of the past political and religious history of the State and of its capital city, the Old South Meeting-House is the one. The question

is almost identical with the general one, whether anything which might be converted into money ought to be preserved as a memento of the past. The spontaneous and universal outburst of gratitude, caused by the success of the heroic firemen in their struggle to preserve the Old South from destruction, shows how strong was the popular desire that so historical a building should be preserved. When it is said that this is a mere feeling, and ought to give way in consideration of the great amount of good that might be done with the money which the sale or lease of the place would produce, we may reply that every man sacrifices money to sentiment, or if he does not, is something less than man. Those who think that they ought to suppress the sentiment which would prompt them to save the Old South Meeting-House are themselves sacrificing money to another sentiment, the love of architectural beauty; for they propose to spend something like \$400,000 on buildings, while one half of that amount would answer all practical purposes quite as well, and leave the other half to be used directly in religious work. If, as is said, there is nothing sacred in brick and mortar, even though found in a building fragrant with sacred associations, there is surely nothing sacred in brick and mortar when found in a new building possessing no associations at all. But it may be said that it is unfair to require a private man or a single corporation to bear the burden of preserving a historic building for the sake of gratifying the public. This may in general be admitted, though in the present case the hardship would certainly not be great; and it may be urged that whenever the public, through its Legislature, has the power to prevent the destruction of objects of public interest, it ought to do so, even if it is necessary



to do it at public expense. In the case before us, if it is thought that, all things considered, the Old South Society should not be deprived of the income of the \$500,000 which meeting-house lot is worth, then the question ought seriously to be considered, whether the State or the city ought not to pay this sum in order to preserve the building from destruction. But I cannot believe that this is, as yet, the real question at issue; for, aside from all consideration of the historic value of the building, —

2. A second objection to the granting of the petition of the Old South Society may be urged on the ground that there is no necessity for abandoning the meeting-house as a place of religious worship. Nothing but an evident and imperative necessity can legally justify the sanctioning of a violation of the specific provisions of a bequest. The question to be decided is, does the spirit of Madam Norton's will require that the letter of it be violated? If those acquainted with the case were unanimous in answering this in the affirmative, such an answer might be taken as decisive. But this is far from being the fact. Aside from all considerations of sentiment, not only a large part of the church and society have from the first opposed the removal, but many of the clergymen and others well acquainted with the conditions and religious wants of the city are positive in the opinion that the meeting-house is needed where it is for religious purposes. The fact of such a division of opinion is sufficient of itself to prove that there is no such urgency in the case as to justify the extreme measure of setting aside the plain conditions on which the Old South Society received the property which it now desires to divert from its prescribed use. Furthermore, that there was no need of transferring the church to the

place now occupied, is shown by the fact that this removal was regarded by one of the Congregational churches, situated in that neighborhood, as an encroachment, and as a violation, in fact, of an assurance given beforehand that the removal would be longer delayed. That this complaint had some foundation was virtually confessed by the Old South Society in their paying out of their funds \$20,000, or more, to the church in question to relieve it of embarrassment. Such a transaction does not make the impression that there was any urgent need of another church on the Back Bay.

But, aside from this, it is not desirable that our churches should be concentrated in those quarters where the wealthier inhabitants reside. Such is not the case in European cities. It is intrinsically proper that, as business should not be divorced from religion in daily life, so the visible institutions of religion should not be widely separated from the places of business. Where men and women can go on the week days to trade, they can go on Sunday to worship. And the poorer classes and the transient population will be much more likely to visit the plain old churches in the business parts of the city than they will be to seek out the elegant churches in the remoter districts.

3. Kindred to this is a third objection to the granting of the petition of the Old South Society. It is undesirable, in itself considered, that any religious society should be the possessor of large permanent funds. It is contrary to the usage of our churches, contrary to their best interests and contrary to the spirit of the laws of the Commonwealth. It is a rare exception, and comes about by accident rather than by design, when churches are so circumstanced. Experience has shown that it is not conducive to the best welfare of the churches

that they should have such wealth. It exposes them to the temptation of becoming inert. The management of the property takes the place of more direct Christian labor. The necessity of constantly giving money for the support of the Gospel being taken away, they are apt to neglect their personal duties in the discharge of their official ones. It belongs to the very genius of true Christianity that it should inspire the Christian with a sense of personal responsibility to give of his means and of his labors for the cause of Christ. Christian character is best developed when the necessity is laid upon every one to make such personal sacrifices. If the necessity is removed, one of the strongest incentives to the discharge of duty is taken away. The possession of great wealth tends also to prevent accessions to a church. It might be supposed that men would be tempted, when they propose to connect themselves with a church, to join one which will least tax their means for its support. But experience does not confirm this supposition. It has been remarked that young men of limited means have preferred to connect themselves with other churches in Boston rather than with the Old South, because there was an impression that no one could be of any influence there unless he were a man of wealth, such persons being naturally regarded as most competent to control the funds. It is an opinion, not held and expressed in a corner only, that the want of prosperity in the Old South Church is to be attributed to its funds more than to any other one cause. The experience of our missionary societies points in the same direction. So long as the mission churches are supported entirely by contributions from the home churches, it is found that the religious life soon flags, and even hypocrisy is encouraged. The American Board has

of late laid especial stress on that feature of its work which consists in requiring of their converts that they at once, to the utmost of their means, contribute to the support of their own ministry and other religious institutions. This is found to have a wonderfully vitalizing effect on churches which had become torpid through dependence on foreign aid.

These considerations apply also to mission churches at home. And when it is said that the money which would be obtained by leasing the land on which the Old South Church stands would be used in supporting mission churches in Boston, it must be replied, that, though good might undoubtedly be done in this way, yet it would be far from being unmingled good. The very name of "mission church," especially as applied to churches in our own land, is infelicitous, and chiefly because the thing is infelicitous; for such churches are too apt to be started and managed in a manner inconsistent with the fundamental principles of Christianity. They are made tributary to a separation of classes such as it was one of the chief ends of Christianity to remove and prevent. The Saviour taught the essential equality of all men. His system is directly at war with every attempt to put the rich above the poor, or the educated above the ignorant, most of all in the church, where the very creed that unites them teaches that all are equally in need of salvation, just as all were made in the image of one God. Every attempt to make permanent such a separation should be frowned down. And nothing tends more offensively to foster this spirit of caste than the organization of rich churches, worshipping in elegant houses, to which the poor feel that they are not welcome, and are made to feel it all the more when they are invited to meet by themselves in another place. Such enterprises can-

not be permanently successful. Mission churches established under such auspices cannot flourish. The poorest and most ignorant have a just pride which makes them feel that, if they are worthy of being evangelized at all, they are worthy of being welcomed into any assembly of Christians. They cannot but see that, if they are kept by themselves, their position is different from that which their own religion designs for them. The same spirit makes them reluctant to be pecuniarily dependent on the rich. Just in proportion as they have got possession of the zeal and the self-respect which are awakened by true Christian principle, they will wish to give rather than receive; and if a church is willing supinely to take its Gospel ministrations without charge, there can be no surer sign that it has little or no religious vitality, and that the money given for its support is as good as thrown away. Not money, but a Christian spirit is the prime necessity in the organization and support of a Christian church. Not even a salaried pastor is absolutely essential. And the most effectual extraneous aid is that which comes in the form of personal labor, sympathy and prayer. Better that every newly-gathered company of worshippers remain poor and destitute of even many religious privileges than that they be kept from enjoying the discipline and benefit of self-dependence.

But, it may be said, the Old South Society possesses the property whether it is benefited by it or not; and the question is, whether it shall have unrestricted right to use the property actually in its possession. What, therefore, has all that has just been said to do with the practical question before us? Much, every way. For the limitations which it is now proposed to set aside grew out of those same principles

which I have endeavored to set forth. Madam Norton never intended her gift to become a source of princely revenue to the society of the Third Church; and the State, in exempting church property from taxation, never intended to encourage religious societies to lay up wealth; still less to give them exceptional advantages in the attainment of it. The policy of the donor in giving the property, and of the State in exempting it from taxation, was merely to furnish to the church needful facilities for carrying on its work. Much more than this has in reality been given to the Old South Society; and the question now is, whether, in addition to what the chances of trade, aided by exemption from taxation, have yielded to the society, the State shall now remove the last limitation to this abnormal accumulation of wealth, and practically give to the society \$500,000, to be used chiefly in erecting a new and sumptuous church edifice. The State, as such, may not be expected to treat the question simply in the light of the purely religious aspect of the case; but it has acted in perfect conformity with what has been set forth as best suited to promote the highest spiritual good of the churches, in passing a law restricting the amount of property which may be held by a religious society; while the law exempting church property from taxation most evidently was never intended to have application to funded property. The present action of the Legislature may not unreasonably be expected to be in accordance with the spirit of Madam Norton's will and of the laws of the Commonwealth. Nothing can be more manifest than that the Old South Society does not need the pecuniary aid which the granting of the petition would give. The Legislature cannot be asked to grant it as a special favor. If it is granted, it must be because it would

be wrong in equity not to do so. And yet, by granting it, the legislature would not only sanction, without urgent necessity, the annulment of the provisions of a will, but would violate the spirit of its own laws, in that it would be practically increasing the wealth of a church already excessively wealthy, while yet it would be obliged to refuse to a new church permission to hold the same amount.

When, therefore, it is said that the old society is only asking the liberty to do what all other religious societies are allowed to do, it must be replied that the case is not analogous to others, and needs to be much more carefully scrutinized. It is a peculiar case: (1) on account of the public interest in the building whose destruction is threatened; (2) on account of the special restrictions imposed upon the tenure of the property which it is proposed to lease; (3) on account of the very strong minority in both the society and the church — a minority still strong, though its numbers have been diminished since last year through the discouragement caused by the lease of the church as a post-office; (4) on account of the very exceptional wealth of the society, which not only needs no addition to its funds, but has already more than the laws contemplate as a proper amount for any religious corporation to hold.

Yours very truly,

C. M. MEAD.

Andover Theological Seminary,

February 7 1874.

HEARING

BEFORE THE COMMITTEE ON PARISHES AND RELIGIOUS SOCIETIES,
IN THE
MATTER OF THE OLD-SOUTH MEETING-HOUSE.

ARGUMENT

OF

GEORGE O. SHATTUCK,

IN BEHALF OF THOSE PEW-OWNERS WHO DESIRE TO
PRESERVE THE MEETING-HOUSE AND
USE IT FOR PUBLIC WORSHIP.

Mr. Chairman and Gentlemen: —

In 1669, Madam Norton gave the land on which the Old South Meeting-House stands, to Thomas Savage and others, "for the erecting of a house for their assembling themselves together publicly to worship God, . . . & for noe other intent, vse or purpose whatsoever." In 1845 (ch. 229), the successors of Thomas Savage and others were incorporated. The act of incorporation authorized them to take and to hold this property, but did not authorize them to lease or to sell it. These petitioners now come here and ask the legislature to relieve them from the trust created by Madam Norton's deed, and remove the restriction imposed by their charter. The minority protest against it.

FINANCIAL CONDITION.

The Old South Society own a partially completed meeting-house on the Back Bay, with a chapel and parsonage. They own also the Old South Meeting-House. Besides these, they have blocks of stores upon Washington street and Milk street which yield them a net income, exclusive of taxes, of \$49,000 a year, and are worth from \$700,000 to \$800,000. They have not, however, paid for the church and property on the Back Bay, and their treasurer (for I take his estimate) allows \$30,000 of the annual income to provide for the cost of that church which they estimate at \$415,000; and he also allows \$3000 a year for insurance and repairs; so that, after this new church has been built and paid for, this society will own its meeting-house on the Back Bay, with its chapel and parsonage and all its furnishings, will own the Old South Meeting-House on the corner of Washington and Milk streets, and will have a clear annual income of \$16,000 a year.

DIVISION IN THE SOCIETY, AND PLAN FOR SETTLEMENT.

There is a division in this society. Forty-two owners of pews have signed the petition for leave to sell the Old South Meeting-House, and most of them desire to remove to the Back Bay. If their petition be granted, and the old church be converted into money, they will carry with them a fund of at least \$800,000, besides enough to pay for their new church, parsonage and chapel.

On the other hand, eighteen pew owners and a large proportion of the church and society are desirous of worshipping in the old meeting-house, and ask that they may be incorpor-

ated and the property divided in proportion to their respective interests, and the old meeting-house set off to them, they paying for any excess if this shall prove to be more than their share.

What is the just course under the circumstances? The Old South Society, fortunately, has two meeting-houses, and a large property besides. Let the minority stay in the old meeting-house, if they choose, and let the majority go to the new meeting-house, and make such equitable division of the property as commissioners, appointed by the Supreme Court, shall award. The minority do not expect any money. They say to you, "Give us the old meeting-house with its furniture and naked walls, as it is;" and they also say, that if that is more than their proportion of this whole property, they will pay to the majority every dollar that it is worth for religious uses, in excess of their share. Can anything be more reasonable than this? Divide the property; let them go their way, let us go our way; and have commissioners appointed to decide what, if anything, we are to pay.

I do not know that there will be any serious objection to this proposition. It is a just compromise and settlement of the whole controversy. I know that some gentlemen who have signed this petition, on the presentation of this scheme, have heartily indorsed it. I have in my hand a letter from one of the majority, showing his generous sentiments in relation to it. It is as follows:—

"I will give ten thousand dollars to have the Old South Meeting-House preserved, with the land around it, as a church and monument forever.

JOHN COWDIN."

Mr. Cowdin is one of the petitioners, and on the presentation of this plan to him, he says, in substance, he will give \$10,000 to help the remonstrants preserve this building.

Let us consider this matter for a moment. These gentlemen, who represent the petitioners, — Mr. Johnson, Mr. Plumer and their associates, — can go down to the Back Bay. They have a beautiful church there, with a parsonage and money enough to support it. They will have this income of \$16,000 a year, and may have the most costly music, the most eloquent preaching, and can sit in their pews and enjoy it, without contributing one dollar toward building their church, or for the support of its services. But they ask in addition to all this, that the share of the minority in the Old South property shall be turned over to them. They do not say that they need the share of the minority to carry on their own society; they propose to turn the minority out of the Old South Meeting-House, convert it into money, and use it for maintaining mission chapels for the poor. That is the precise issue between us: whether the minority, an earnest, intelligent minority, who are able to take this church, who are willing to take this church, and to use it for the purpose for which Madam Norton intended it, shall be driven out, and the old meeting-house converted into money to enable the majority to practise benevolence at the expense of the minority.

RIGHTS OF MAJORITY AND MINORITY IN THIS MATTER.

The main argument for the expulsion of the minority and destruction of the meeting-house is, that the majority have voted it and that the majority must rule. I most earnestly pro-

test against this attempt to magnify the weight of a majority in a case in which the law has provided that the majority shall have no power to act. Wherever the majority, by law, is to rule, it is the duty of every good citizen, as well members of religious societies as others, to acquiesce. But in 1845, the parties then proprietors of the Old South Meeting-House, Gov. Armstrong and others, accepted the act of the Legislature providing that the majority should not decide this question. They foresaw the danger that a majority might happen at some time to be found who might consent to remove this sacred edifice, and for that reason they accepted the provision in the charter which put it forever out of their power and out of the power of their successors. A unanimous vote of the pew proprietors would not authorize a sale or lease. Under this statute, nothing less than an act of the sovereign power which you, gentlemen, represent can give such authority. But they have even attempted here to give to the voice of the majority something like a religious sanction. They have called on Prof. Park and Prof. Phelps, of Andover, men for whose scholarship, eloquence and piety we all have a profound respect — they have called them in to declare to us in solemn words that our liberties are in peril if this majority is not allowed to carry out its scheme and accomplish what the Legislature has enacted that they shall have no power to accomplish. It is sufficient to say that these professors cannot have examined this question carefully, or they would not have given such an opinion.

HOW MAJORITIES MAY BE MADE.

But let us consider the effect of giving the majority the control in a society like this. It virtually gives the whole

power to the standing committee. Only sixty pews are owned by individuals. A larger number are owned by the society. Those are under the control of the standing committee. They can sell them whenever and to whom they please. Nobody can get a pew, unless the standing committee approve of him ; and whenever the standing committee choose, they can make a majority. Now, I do not wish to be understood as charging this present standing committee with any intentional unfairness, but since this property was leased, and these pews taken down, they have actually created seven voters against us, and only one for us. They have given pews to the wife of the treasurer and to the wife of the attorney (their husbands owning others) ; they have given one to a son of one of the building committee ; and they have given to several other parties deeds of pews in that old meeting-house after the pews have been torn down, and, as I understand, demolished ; while Peter Hobart, Jr., who attended the church, and who would have voted with us, was unable to obtain the deed of the pew which he had bid off at auction ; and these new voters come here and are counted against us on this question.

Such is the majority which these Andover professors are called upon to indorse. When the question came up as to leasing the Old South Church in 1872 for the post-office, twenty-nine votes were cast for the lease, twenty-three against it. This, according to the by-laws, was a legal vote, but votes by proxy were not allowed, and representatives of deceased persons, though owning and occupying pews, were not allowed to vote on them unless formally transferred on record ; the minority say that this vote did not express the real opinion of the proprietors. If you add together, as I

understand it, the persons who voted against the lease, those unable to attend, and those deprived of voting for technical reasons, there would have been no majority for the lease.

INJUSTICE OF THE PLAN OF THE MAJORITY.

So much, gentlemen, for this majority which has been talked of. But not only has the statute limited the power of the majority in this case, but, according to the principles of equity and of common law, the majority have no power to deprive the minority of their rights. Let me tell you, Mr. Chairman, what they propose to do here. I do not say this intending to reflect upon the standing committee, but when men are pressing on in these matters, inspired, perhaps, by religious zeal, they fail to realize the consequences of their acts. They propose to provide themselves with a fine edifice, costing nearly \$100,000 more than any other on the Back Bay, to furnish it with everything suitable for social festivities, — a kitchen, a hall, a parsonage, a chapel, — everything; they propose to have money enough to pay for them, and all their music and preaching, and sit in their pews and worship, while the poor minority are turned off to some other church, with the miserable pittance of the valuation of one of those Old South pews, which, I believe, may be two or three hundred dollars, more or less. That is all they propose to give us, unless we choose to go down there. Now there is a law, gentlemen, which does not, fortunately, apply to this case, that when a meeting-house is torn down, they can pay off the owners by giving them the appraised value of the pews for religious purposes. But by their legislative act, they are by implication

prohibited from selling, and therefore that statute does not apply. In the next place, it would be grossly unjust if they should attempt to apply it. It ought never to apply to a case where there is a large fund. Consider its effect here. A pew in that Old South Church does not give simply the privilege of sitting in the pew and hearing the preaching which you pay for, and hearing the music which you pay for; it means, in the Old South Church the right to sit in the pew and listen to music that Madam Norton's funds pay for, and to eloquent preaching paid for out of the funds of Madam Norton. It means not only that, gentlemen, but it means the right to have a finger in the management of funds worth \$50,000 a year. The ownership in a pew in Madam Norton's meeting-house means all this. Now the majority propose, while they sit in their costly edifice and worship, to turn us, the minority, out of the old meeting-house against our will, and give us the pittance of a few hundred dollars a pew, and nothing more. If we left the old meeting-house, this allowance might be all that would be practicable. But this minority is numerous enough to organize a new society and support worship in the old meeting-house; and although they are content with the bare walls of this sacred edifice, and expect none of this money, still they do insist that they ought not to be expelled from this meeting-house against their will, and turned off with this miserable pittance.

LEGAL RIGHTS OF PEW-OWNERS IN MADAM NORTON'S MEETING-HOUSE.

Now, gentlemen, I wish to consider for a moment what the nature of this society is; I mean the *legal* nature of it.

because our courts have had similar cases before them. Madam Norton's deed is a peculiar one. It is in the quaint old style, but that is not the peculiarity of it. This property was given by Madam Norton to a *dissenting minority* for "erecting a house for their *assembling themselves* together publicly to worship God."

She did not give it to the public for the worship of God. She did not give it to the city of Boston. She did not give it for an indefinite number of persons to worship in. Madam Norton meant to confine it, as they have ever confined it since, to the donees and their successors, and to exclude all others. Now, our court has held in the case of the Federal-street Meeting-House (3 Gray, 1), to which I desire to call your attention, that where property is given to individuals in that way, for themselves to worship, it is not a public charity. The attorney general cannot come in and interfere if they misappropriate it. As has been said, the ownership of it is similar to the ownership of a private club-house. It is true, they own it for the purpose of religious edification, but it is their own religious edification, and that is the reason why they have the right to pass these stringent by-laws, providing that no person shall become a proprietor unless he is satisfactory to the standing committee. It is not a public charity, but in the nature of a private place for public worship; and it follows, as a matter of course, that each one of these pew owners has his proprietary interest in this property. And there is little doubt, that if the legislature should repeal the charter of the Old South Society, as it has a perfect right to do, because it was passed since 1829, this property would then belong to these pew owners, in trust perhaps, so that they could not divide it up among themselves for private

uses, although I am not quite sure of that if the Legislature should relieve them of the only trust created by Madam Norton. Judge Hoar says, in the case of the Merrimack Religious Society at Lowell (14 Gray, 286), that a meeting-house may be sold and the proceeds appropriated to private uses, unless some trust has been created by gift, or by contract. If they receive an income from this land they may build chapels, or they may not. Of course, under Madam Norton's deed, and the act of the Legislature, they cannot sell this land now. It is safe while it stands there; but if it is sold, no one can say what the result would be.

We have this interest, which is in the nature of a private interest for the religious edification of its proprietors. When you repeal the charter, each individual will have his proportionate interest in the property, and the legislature can authorize the division of that property equitably among two religious societies made up of different parties having interest in it. Such divisions have been frequently made in this commonwealth. In 1862 (ch. 106), you find that when the South Parish in Andover was divided, there was a clause inserted in the act that it should not deprive the minority of their proportional interest in any parish funds; and I think about one third was set off to the minority, the majority retaining the rest of it.

The CHAIRMAN. — Was not that result obtained by resort to the courts?

Mr. SHATTUCK. — The division was authorized by the Legislature, and I think it was carried out subsequently by agreement. It may have been by the court. This recognizes the right of the Legislature to divide funds of this kind. I have conferred with one or two eminent lawyers in relation

to this act, and they seem to think there is no substantial doubt as to the validity of an act dividing the funds between two societies; and it seems so reasonable and just, that I think no party should object to it.

Upon these grounds I say, therefore, the minority have rights; and I ask, in their behalf, that the Old South Meeting-House be preserved, and given to this minority as their just share. They are able to keep it, and they are willing to have a clause inserted in the act requiring it to be kept for religious uses and as a memorial forever. No one can doubt that, as Madam Norton's gift was made to a dissenting minority, if this minority are willing to take this church and maintain it, that such a disposition would be in accordance with her wishes.

PUBLIC POLICY IN FAVOR OF THE MINORITY PLAN.

But, gentlemen, I not only ask this as a right, but our claim is sustained by all considerations of public policy. It will secure the preservation of the Old South Meeting-House, without imposing a burden upon anybody. We have here a remonstrance against its removal, coming from nearly two hundred of the Congregational ministers in Massachusetts. That did not come from us, but the matter was presented to them by a person who has no other interest in the question than any other Christian minister of this denomination.

We have, besides that, the support of the presidents of Yale College, of Amherst, and of Williams, and numerous other remonstrants from different parts of the commonwealth. These remonstrances, from these respectable sources, show how this is regarded as a public question. I say that this claim

is supported by all considerations of public policy. In the first place, this building is needed for religious uses, — as a house in which to worship God. We have had the testimony of three men of the highest character, who probably understand better the religious wants of this part of the city of Boston than any others. We have had the testimony of Dr. E. B. Webb, the pastor of the Shawmut Church; the testimony of Dr. Henry M. Dexter, for many years pastor of the Berkeley-street Church, and now the editor of the "Congregationalist," and the testimony of Dr. Lorimer, who is preaching now in Tremont Temple; and they tell you, and tell you earnestly, that in their judgment this building is needed for religious purposes.

It may not be needed for precisely such a church as the Old South has been. There are different classes of churches in the city of Boston. There are the old family churches, which are occupied mainly by men with their families, such as the Old South has been, and such as the Old South on the Back Bay will probably continue to be. We have, besides that, a class known as mission chapels, which are supported mainly by contributions from the richer churches. We also have a third class, self-supporting, but made up chiefly of younger people — persons more recently from the country, who join them, take part in them, and keep them alive; and of that class is Park-street Church, and the church in Tremont Temple. I was told a few years ago by a deacon in Park-street Church, that that congregation changed three times, substantially, during the ministry of Dr. Stone. Young people come in from the country, they go there for a few years; they find more sympathy there than in other churches; they are more interested in the services; but when

they marry and settle down in different parts of the city, they often join the family churches in their neighborhood. I have no doubt that will prove true with regard to Dr. Lorimer's society.

The churches of this class, taking young men and women as they do at the crisis of their lives, are the most important and useful ; and I say, after consulting with some of the wisest ministers of the city, that we do not at present want any more mission chapels for the poor ; I say also that we do not want any more family churches ; but we do need churches of this class for young men and young women. As you know, Mr. Chairman, there is every year a long procession of young men and young women pouring into the city from the country, to seek their fortunes, and when the stillness of Sunday comes they go first, perhaps, to one of these old family churches. They find the respectable business men sitting there with their families, with their well-dressed wives and daughters. They are waited upon into a pew by the sexton, very respectfully, with courtesy, perhaps with some Christian courtesy ; but they feel that they are not wanted to take part in that church. They stay there through the service, and they leave the house with the feeling that there is really no place for them there. Perhaps on the next Sunday they go down to one of these mission chapels ; but while they are sitting there, the question comes up whether they, who in the country sat in their own pews, whose fathers paid a full proportion of the cost of public worship, are in their new homes to be in any way dependent upon charity, and they feel that there is no place for them there ; and if they go anywhere, you will generally find them at Park street and at Tremont Temple, or other simi-

lar churches in the city that do furnish sympathy, co-operation, and work for them.

This Old South Church is not wanted to-day for a mission chapel, it may or may not be wanted for a purely family church; but it is wanted more than ever to furnish proper religious influences to this class of young people. And I here present a most earnest appeal for maintaining the Old South Meeting-House where it is, in order that we may have another society such as the times demand. I say this from the testimony of these men who understand it, of Dr. Dexter, Dr. Webb and Dr. Lorimer, and those other gentlemen who feel this need every day and every hour. It is idle to talk about there not being a demand for this kind of religious service. The most crowded churches in Boston are within nearly a stone's throw of the Old South Meeting-House. Our census has shown that even in Pemberton square more than a hundred persons live in upper chambers and attics, besides those occupying the regular boarding-house, and that there are more than a hundred also in Temple place. And there can be no doubt that the number who live over stores in this part of the city will be much larger as time goes on, and that churches will be needed for their accommodation as well as for others'.

I do not mean to say that the division line between the classes of churches I have mentioned is exactly drawn. You will find some young people in every church, some families in every church, and many of the mission chapels are partly self-supporting; but there is a foundation for the distinctions I have taken.

THE PLAN OF THE MAJORITY IN VIOLATION OF LAW.

The plan of the majority is opposed to the law of this commonwealth limiting the funds of religious societies.

There is a statute providing that religious societies may hold money necessary for the objects of their organization, and no more. That is in the fourth section of the 30th chapter of the General Statutes; and I have been curious to look over some of the earlier acts, before we had any general laws on this subject, and I find that in all the acts I have seen, there was a provision that a religious society might hold so much property, and no more; those words, "and no more" were always, so far as I have observed, inserted. In fact, there is nothing that our fathers more carefully guarded against than the holding large funds by these religious societies.

There is an obvious reason for this. Educational institutions are for the benefit of those who devote nearly their whole time to study, and cannot therefore support themselves; and these institutions need funds. Hospitals are established for those who are incapable of self-support, either temporarily or permanently; they therefore need funds for their support. But religious institutions are intended for all classes, including the strong and active; and if a religious society under ordinary circumstances will not provide for itself, it is probably of very little service to its members. If you authorize this majority to sell this church, you will authorize them to hold a fund of at least \$800,000, besides their church, chapel and parsonage. This is in direct violation of the statute of the commonwealth, and of its ancient policy. If the society hold that fund, to guard against

abuses they must admit no members to the society who are not competent to take part in its administration. They must necessarily be exclusive. Parties who seek to join the society will be looked upon not as helpers in bearing a common burden, but as persons who seek to participate in the management of property. Selfish men will join the society to be relieved from taxation, and for the incidental benefits from the management of the fund. No vigilance will protect such a society from abuses. Its relations to the community cannot be such as a christian church should hold. By no act should the Legislature, directly or indirectly, sanction the holding of such a fund. If this society shall be divided as we ask, each new society will be strong in itself, and neither of them hold funds in violation of law.

I can do no better than to refer you to the testimony of Prof. Mead, of Andover, Dr. H. M. Dexter and Rev. C. B. Rice, as to the objections to the holding of large funds by religious societies, and to the questionable advantages of mission chapels dependent upon funds like these for support.

It has been suggested here, and with force, that a large part of this accumulation of funds has come from the exemption of this meeting-house from taxation. Now I do not mean by any words that I shall say to lend any sanction to the theory that meeting-houses should be taxed, — I mean, of course, meeting-houses properly used; but when the question comes, whether a fund which has been accumulated, and escaped taxation on the theory that it is to be used for religious purposes solely, becomes so large as this, and is to be converted into money, the commonwealth has an equitable right to say what shall be its disposition; and I say, therefore, that against any cry of hardship on the part of the

majority, it is a sufficient answer to say, that the commonwealth has furnished practically a large part of this fund, and has a right to participate in its control.

THIS LAND NOT NOW NEEDED FOR BUSINESS PURPOSES.

There is another consideration, and it is an important one : this land is not needed for business purposes. There have been so many structures erected for stores since the fire, that there is an over-supply of buildings for that use. There are now many lots vacant which have not been built upon ; and many stores which have been built have not found tenants. The effect at this time of erecting buildings upon the land of the Old South, if those stores were let, as they probably would be, would be to leave stores vacant in other parts of the city. There is therefore no present reason why this year, or next year, this land should be occupied with stores. Then, again, it is urged that this property would pay a large tax if used for business purposes, and therefore it should be devoted to that use. In regard to that, you may as well argue that Boston Common would pay a large tax if it were devoted to business uses. The truth is, that the ability of the city of Boston, or any city, to pay taxes depends upon the number of stores and dwelling-houses occupied, and the amount of business done ; and there will be just as many stores and dwelling-houses in Boston if the Old South stands where it is as there will be if it is torn down. The only difference will be, that the stores will be placed upon other land, so that to the public, the only loss from reserving a piece of land in the heart of the city is really the value of land on the outskirts. There-

fore the reservation of a proper amount of land for parks, squares, churches and public buildings does not reduce the taxable value of the property in the city at all ; and although the first year the tax might be a little larger, in the long run the city of Boston would hardly have a dollar more taxable property if the Old South Church were turned into stores than it will if it is retained where it is. But, at any rate, we do not need it now for business purposes, nor is it needed for streets. Washington street can be carried under the tower without injury to the edifice.

THE OLD SOUTH HAS A VALUE AS AN HISTORICAL MONUMENT.

This is one of the last of the early specimens of New England meeting-houses. I saw a map of Boston the other day, made in 1743, in which the great features in the landscape were twenty or thirty tall old church spires. One after another, they have been swept away, and the Old South Church is now, or soon will be, the last of these monuments. It is a good specimen, as Mr. W. R. Ware, the architect, has told you. It is worth preserving, and no doubt in a hundred years, if it shall be allowed to stand, people will come from all parts of the country to see it as the only memorial of an architecture which will have been swept from the world by the rapid march of business, just as effectually as if it had belonged to a period four thousand years ago. Now, I do say, in behalf of Boston, that when the minority are willing to take this church and preserve it, its value in this light is an important consideration for you to bear in mind.

Boston has a history of almost two centuries and a half, and to some of the events in that history we all of us point

with pride. They are not only recorded on written pages, but we are reminded of them by these monuments which were identified with the events and which have been consecrated by them. These monuments have their value. They remind the children of the deeds of the fathers. They have not only a value in common times, but in the hours of a grand crisis, when we are called upon to make great sacrifices for our country, they are of priceless value. Such was the Old South in 1861. Then its pastors and standing committee, in noble words, bore testimony to its worth. They would have repelled with indignation the thought that they could ever consent to tear down the walls of the Old South Meeting-House. If you had asked them then if they ought not to sell it to build chapels for the poor, they would have told you that there was money enough in Boston to build chapels for the poor, but if the Old South Meeting-House were once destroyed, the wealth of the nation could not restore it. Why is this change? It seems to me that if the Old South must be torn down, this is a good hour to do it. When our merchants are hounded by informers, when we seem to be gazing with stupid apathy at the gigantic frauds at the Capital, it is a good time to tear down the walls of the Old South Meeting-House. But I tell you, gentlemen, if we ever have a purer air, if the day ever comes, — and it will come, — when we are again proud of our country, there will be enough of the blood of the old Boston Tea Party in the veins of their descendants to mob the man who dares tear away a brick from this "Sanctuary of Freedom." I tell you that the children of these men who propose to convert this church into money, if they are properly educated in the Boston schools, and understand its history, will blush with

shame that their fathers so far forgot their duty. It is the fault of the times, gentlemen, of the times. I appeal from the judgment of the Old South Society to-day to the judgment of the Old South Society in 1861. Their sentiments then are recorded ; you have heard them. They never dreamed then that anything less than rebel cannon, after they had battered down Faneuil Hall, would strike at the Old South Meeting-House. But, alas ! the Old South Meeting-House has found a worse enemy within her own walls. I only ask you to stay these hands during this unhappy hour, and the Old South is safe forever.

I have asked for the preservation of this meeting-house in behalf of the minority as a right. I demand it, too, in behalf of some, I am happy to say, of the majority. I hope, and confidently believe, that many of the majority will co-operate with us in this good undertaking. We have seen no man in the Old South Society who has not told us, before he said anything in favor of the removal, that he did it reluctantly and against his inclination. They tell us that they, too, love this old edifice ; that they have come reluctantly to the conclusion that they must sell it and give the money for the benefit of the poor. We now point out to them a better way, a way in which it can be saved with no detriment to themselves, with no violence to their consciences. The minority take upon their own consciences the responsibility of preserving this building. They are earnest and intelligent men and women. If you give them this meeting-house they will preserve it sacredly as a house of public worship ; and in time it may be made the first historical monument in America. We have only two buildings left here — Faneuil Hall and the Old

South Church—of much historical value. The Old State House has been so long used for business purposes that it has almost lost its character as a monument. But the Old South Church and Faneuil Hall remain. The Old South Church only is fit for a memorial building. It is fit as a memorial of the dead, because it is to be used by the living for the worship of God. The members of this society, certainly, have deplored from the beginning the necessity for its destruction. We have now shown them a way to save it. I beg of you, therefore, to do an act of simple justice, to give this minority what they ask, to save the old church from this enormous fund and its demoralizing influences, to save this building as an historical monument, and to save it for the worship of God.

Whoever recognizes the fact that man has a religious and moral nature, that he remembers with just pride the noble deeds of his ancestors, and with a kindred feeling all the great events of history, will appreciate the worth in every point of view of this old meeting-house; this historical monument, standing as it does in the very centre of business, and reminding not only the children, but every stranger who shall come within our borders, that we have a history of which we have a right to be proud, and that one spot at least standing in the centre of the marts of trade has been so consecrated to the worship of God.

I wish to say a word in regard to the bill which we present to the committee. After careful consultation with other counsel, this bill has been prepared, which incorporates the majority and gives them the church on the Back Bay, and it also incorporates the minority and gives them the church on the corner of Milk and Washington streets; and in case the

two corporations cannot agree as to the divisions of the property, commissioners are to be appointed by the Supreme Court who will award to each party their just proportion of the property, having reference to the interest which the respective parties had in the old church. The persons who do not go with either society are to receive the appraised value of their pews. Probably there will be very few, if any; most of the pew proprietors will go either to one society or the other. Now, if their is anything unreasonable or unjust in this bill, I can only say that I hope my friends on the other side will suggest it. I have endeavored in drawing the bill to do absolute justice; I have seen no one who has examined it who does not approve it; and if the chairman or the committee see anything which is wanting in fairness, or liberality even, I will thank them to point it out.

There are one or two other matters to which I want to refer. We have found thirty or forty ministers, including President Hopkins of Williams College, and President Stearns of Amherst, who have agreed to keep up services in the Old South Meeting-House. The minority do not expect to rely on this for permanent support, but we regard the offer as signifying a willingness on their part to contribute to this good work. Parties have subscribed a considerable sum to maintain religious services in the old meeting-house, and they are ready to subscribe more. I think I may say, from the known character of the minority, that there is no doubt that if they have this property, they will take care of it to the satisfaction of the community, and maintain in it religious services useful to themselves and to the city.

THE ACT PROPOSED BY THE MINORITY.

AN ACT RELATING TO THE OLD SOUTH SOCIETY IN BOSTON, AND
THE DISPOSING OF ITS MEETING-HOUSE.

SECTION 1. Samuel Johnson, Avery Plumer, Samuel H. Walley, and such others, proprietors of pews in the Old South Meeting-House in Boston on the first day of March 1874, as may elect to become members of the corporation mentioned in this section, and shall convey to it their right to pews in said Meeting-House within three months after the passage of this act, and their associates and successors, are hereby made a corporation by the name of "The Old South Corporation in Boston," with all the powers and privileges, and subject to all the duties, liabilities and restrictions contained in the thirtieth and sixty-eighth chapters of the General Statutes, as far as the same are applicable to this corporation.

SECT. 2. Uriel Crocker, David Buck, Jacob A. Dresser, and such others, proprietors of pews in the Old South Meeting-House in Boston on the first day of March 1874, as may elect to become members of the corporation mentioned in this section, and shall convey to it their right to pews in said Meeting-House within three months after the passage of this Act, and their associates and successors, are hereby made a corporation by the name of "The Old South Meeting-House Corporation in Boston," with all the powers and privileges, and subject to all the duties, liabilities, and restrictions contained in the thirtieth and sixty-eighth chapters of the General Statutes, as far as the same are applicable to this corporation.

SECT. 3. Such proprietors of pews in the Old South Meeting-House in Boston as shall not, within three months after the passage of this Act, elect to become members of either of the above-named corporations, the Old South Corporation and the Old South Meeting-House Corporation, shall receive from the property of the Old South Society the appraised value of their pews according to the valuation made under the Act passed in December 1872.

SECT. 4. Said Old South Corporation are hereby authorized to take, hold and convey the new Meeting-House and Chapel on Boylston Street, and the land under and adjacent to the same.

SECT. 5. Said Old South Meeting-House Corporation are hereby authorized to take and hold in fee simple the old Meeting-House on Washington Street, and the land under and adjacent to the same, now leased to the United States, subject to the right of the United States under the present lease.

SECT. 6. The rest of the property of the Old South Society shall be divided between the said Old South Corporation and the said Old South Meeting-House Corporation, as said corporations may agree and determine. And in case they fail to agree, either party may apply to the Supreme Judicial Court for the appointment of commissioners to appraise the whole property of the Old South Society, and to divide the same between the Old South Corporation and the Old South Meeting-House Corporation. And in case such application shall be made, the Supreme Judicial Court, sitting in equity, shall appoint three commissioners, who shall, after due notice to said corporations, and hearing the

same, appraise the whole property of the Old South Society in Boston, and apportion the same between the Old South Corporation and the Old South Meeting-House Corporation, in such proportion as the appraised value of the pews held by the one corporation shall bear to the appraised value of the pews held by the other corporation according to the valuation made under the Act passed in December 1872, having also due regard to the liabilities to be assumed by each corporation, as hereinafter provided. And said commissioners shall assign to the Old South Corporation the new Meeting-House and Chapel in Boylston Street, and to the Old South Meeting-House Corporation the Old South Meeting-House in Washington Street, with its appurtenances. And in case they shall award that either corporation, in receiving said Meeting-House, or said Meeting-House and Chapel, has received more than its due proportion of the property of the Old South Society, they shall award the amount of such excess, and fix the time or times and terms of payment thereof to the other corporation. And each of the said corporations shall assume such portion of the debts, contracts, and liabilities of the Old South Society, and shall pay such proportion of the expenses of this commission and of the proceedings under this Act as said commissioners shall award. And in appraising said property of the Old South Society the value of the meeting-houses and of the land under the same, and of any other buildings and land used exclusively for religious and charitable purposes, shall be fixed with reference to their use for such purposes. And the award of said commissioners, and the decree thereon, shall be recorded in the Registry of Deeds for the County of Suffolk.

SECT. 7. Chapter two hundred and twenty-nine of the Acts of 1845, and all amendments thereto, are hereby repealed. But until said Old South Corporation and said Old South Meeting-House Corporation shall have agreed upon the division of the property, and until such agreement shall have been ratified by each corporation at a meeting duly called for the purpose, and said Old South Society shall have conveyed to said new corporations their respective interests in the property under said agreement, or, failing such agreement, until the report of the aforesaid commissioners shall have been received and approved by the Supreme Judicial Court, and title thereunder acquired, said Old South Society in Boston may continue to transact its ordinary business, and to provide for the ordinary expenses of maintaining public worship in the chapel on Boylston street, and of carrying on the work of the society at Chambers-street Chapel, and may make any payments that may be necessary to meet its existing obligations; but it shall not incur any debt, or make any contract or payment for any other purpose, and it shall not transfer any pews.

SECT. 8. Each of said new corporations, after it shall have acquired the title to its meeting-house, may make such disposition of all pews therein as it shall deem equitable, and for the best interests of the corporation.

SECT. 9. Said Old South Meeting-House Corporation shall not sell or lease its meeting-house or land under the same, but shall hold and maintain the same forever for religious and charitable purposes, and shall maintain the meeting-house substantially as it was in October, 1872, for religious, charitable and memorial purposes.

SECT. 10. All acts or parts of acts heretofore enacted, conflicting with this act, are hereby repealed.

SECT. 11. This act shall take effect on its passage.

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